

Meeting of 2005-11-08 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
NOVEMBER 8, 2005 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Traci Hushbeck, City Clerk  
   COL Sonny Uberti, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:00 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by the Pastor Gary Bender, Bethlehem Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Rex Givens, Ward Two  
   Janice Drewry, Ward Three  
   Keith Jackson, Ward Four  
Robert Shanklin, Ward Five  
Jeffrey Patton, Ward Six  
   Stanley Haywood, Ward Seven  
   Randy Warren, Ward Eight

ABSENT: None

PROCLAMATION FOR NATIONAL HOSPICE PALLIATIVE CARE MONTH

Mayor Purcell presented a proclamation to Jeff Henderson, Hospice of Lawton, proclaiming the month of November as National Hospice and Palliative Care Month.

Mr. Henderson encouraged all residents of Lawton and the surrounding counties to be aware of the service that Hospice provides. It is a wonderful support service should anyone ever need it.

AUDIENCE PARTICIPATION:

Dan Tucker, 6916 SW Beta, stated there are a few things that would be good to know when the City Council annexes property into the city of Lawton. A statement was made at a recent meeting that when the property is adjacent we would not have to repair those streets or bring them up to code. A comment was made at that meeting that some of the streets outside of the city limits, such as Pecan Valley, were as good or better than some of the streets in Lawton. He stated that as a citizen, he would hope that the City Council would not use that as a gage, simply because we do have bad streets, and we need a way to fix them. He stated he knows how hard it is to annex surrounding property, but this body makes it easy for people not to want to be a part of the city. We offer fire service contracts on the edge of the city, and when someone buys our water, they are required to form a water service district. This is for good cause, because these homes have been held up to no standard. The water lines may be in the best condition, but when a water system attaches to our lines, we require that it has a back flow prevention device so that should there be a cross connect inside, that would not get into our public water supply. The minute we annex that property and make that system our water supply, that back flow preventor requirement goes away. He asked that the City Council develop something that looks at an area to be annexed to figure out what was built into that system to allow them to get water and become a water association that protects the city of Lawton's public water supply. He requested that the City Council look at the safeguards that are in place.

Shanklin stated that if Mr. Tucker was concerned about a back flow problem, why would that not be required for every household inside the city limits.

Mr. Tucker stated that when a sink, appliance or other device is installed, that work is required to be inspected to

ensure that it meets our city code. He stated our city code does require that in each and every house there be a back flow preventor installed at the point of connection with the city. That requirement has been in place for the past five or six years.

Shanklin stated that just because it has been inspected, it does not mean that it was done right.

Mr. Tucker stated that if that inspector has a habit or does not know the difference, he could not imagine the City Manager taking some action to correct. It is not something that someone deliberately does.

Burford Rooks, 6410 NW Compass Drive, stated he is concerned about the easements and alleyways. He distributed two photographs of fencing that is across the easement of his home. Each and every month the utility workers have to cross over these fences. He questioned if one of those workers were injured could they sue the property owner.

Vincent stated that would be a workers compensation issue.

Mr. Rooks stated on May 1<sup>st</sup> an article was in the paper which stated that the City Council was trying to put in stricter limits on the easements, and now six months later anyone can put a fence up as long as they get a revocable permit.

Patton stated that when we talk about easements it is usually one of two problems. There are property owners that want to use their property to the full extent and want to include that easement area within their fence. Utility companies don't really like this because they want to access those areas. The problem is that in areas when they don't fence the easement and they just block it off, the property owner will not take care of it, even though it is still their responsibility. There are conflicting issues.

Mr. Rooks stated that his neighbor was told not to put up that fence across his easement. He went on vacation and when he returned the fence was nine feet on his property. He went to court and the judge ruled that his neighbor could keep the fence and buildings on his property until his death. There is nothing the city can do and no one can help him.

Mayor Purcell stated the City Council has discussed this issue and there is nothing they can do.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETING OF OCTOBER 11, 2005.

MOVED by Shanklin, SECOND by Warren, to approve the Minutes of October 11, 2005. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: Mayor Purcell requested items 2, 3 and 13 be considered separately. Jackson requested 5 and Shanklin requested 9 and 10 be considered separately.

MOVED by Shanklin, SECOND by Haywood, to approve the Consent Agenda items as recommended with the exception of items 2, 3, 5, 9, 10, and 13. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for the claim which is over 400.00: T. Jessie Robinson. Exhibits: Legal Opinion/Recommendation; **Resolution No. 05-181**.

2. Consider the following damage claim recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for the claim which is over \$400.00: John R. Corey in the amount of \$2,765.17. Exhibits: Legal Opinion/Recommendation and Resolution No. 05-\_\_.

John Corey stated the amount recommended for payment is not enough to even cover his carpet. This is not enough to get his home back to the way it was. The previous owner had the same problem and this council awarded him \$10,000. He requested that the City Council reconsider the amount.

Patton stated that the information they received had an estimate for \$6,700 and an estimate for \$10,600. He questioned what the difference was between the two estimates.

Mr. Corey stated he believes it was because of the drywall. This has happened three times before and there is a problem with mold. All the previous owner did before was paint the house, put new carpet down and move away.

Vincent stated there is no question about the liability. They received four estimates on this claim. He stated that staff went out and inspected the home and can find no damage to the wall structure.

Mr. Corey stated the walls were recently painted which would cover up any indication of mold.

Vincent stated the walls were painted before the water damage. This house was totally repaired in 2002 with a claim of a little over \$10,000. He stated staff did depreciate the carpet for three years and that is the only depreciation they took.

Mr. Corey questioned if the staff that went out were qualified inspectors.

Vincent stated they were qualified insurance people. He stated that Mr. Corey did call his office the day before to say that he would accept the recommended amount.

Mr. Corey stated that he changed his mind about the amount. He came here tonight because the amount recommended will not even allow him to replace the carpet.

Patton questioned if the previous damage was covered up by the paint.

Mr. Corey stated that is a good possibility because it has happened three times in the past and nothing has been done to the sheetrock.

Patton stated they could only adjust what has happened now and pay the damages from this single occurrence. They cannot factor any damage that was done by previous owners.

Mr. Corey questioned why the city gave the previous owner \$10,000 for the same damage.

Vincent stated the previous owner had significantly more damage. He questioned if the previous owner did not make all the repairs that the city paid for. Now Mr. Corey is stuck with making those repairs.

Mr. Corey stated the previous owner did not make any sheetrock repairs.

Vincent stated the city paid him for those repairs to the sheetrock.

Shanklin questioned if Mr. Corey's homeowners insurance will cover any damage.

Mr. Corey stated he did not think so, but he has not turned anything in to his insurance company. The city is at fault and he only wants to get his house back in shape.

Warren questioned when the council changed the code to when the city paid a claim the owner had to put in a diverter.

Vincent stated the code was not changed, but there is a policy that was adopted a year or two ago that does not seem to work and they are looking at that policy.

Mayor Purcell clarified that the city has paid once to have the sheetrock replaced and now they are being asked to do it again.

Shanklin stated the pictures do not show any damage to the baseboards.

Mr. Corey stated he has seen the damage in the garage.

Vincent stated the claim from 2002 shows there was water damage up 18 on the wall. That is the reason the council paid the \$10,000 claim.

Mayor Purcell stated the citizens of Lawton have already paid the damage once, and the previous owner sold the house to Mr. Corey as if it was repaired. Now the council is being asked to pay for the same damages.

Mr. Corey stated the previous owner just painted the house and left town. He has to live there.

MOVED by Patton, SECOND by Shanklin, to approve **Resolution No. 05-182** approving the claim in the amount of \$2,765.17. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

3. Consider the following damage claims are recommended for denial: Geico Direct in the amount of \$6,297.31, Doris Ellis in the amount of \$2,415.28, Marketta & Lewis Jones in the amount of \$275.38, AIG American International Recovery in the amount of \$3,089.77. Exhibits: Legal Opinions/Recommendations.

Warren stated he spoke with Mrs. Ellis before the meeting and she would be willing to accept \$435.00 which is the cost to clean the carpet.

MOVED by Warren, SECOND by Shanklin, to approve **Resolution No. 05-183** approving the claim of Doris Ellis in the amount of \$435.00 AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

Marketta Jones, 3507 NE Kingsbriar, stated on September 6<sup>th</sup> she was heading south on I-44 when debris from a City of Lawton truck cracked her windshield. She stated the truck was covered with a mesh type cover with a retractable arm. She stated other trucks have tarps and asked that the City of Lawton look at the way they are covering their vehicles when they haul debris.

Shanklin questioned if she followed the truck.

Mrs. Jones stated she did follow the truck.

Jackson stated it looks pretty obvious that the rock did come from the City of Lawton truck, and Mrs. Jones followed the truck from one side of town to the other just to identify the vehicle. He stated there is a possibility that rock could have come from that truck with the tarping system we currently use.

MOVED by Shanklin, SECOND by Jackson, to approve the claim of Marketta and Lewis Jones in the amount of \$275.38. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

MOVED by Givens, SECOND by Jackson, to deny claims of AIG American International Recovery and Geico Direct. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens. NAY: None. MOTION CARRIED.

4. Consider adopting a Resolution 05-\_\_\_\_ designating the Crepe Myrtle as the official City of Lawton shrub. Exhibits: **Resolution No. 05-184**.

5. Consider approving a resolution supporting the upcoming countywide Enhanced Wireless 911 election on December 13, 2005. Exhibits: Resolution No. 05-\_\_\_\_ and article from Daily Oklahoman.

Jackson stated that Comanche County is making an effort to pass to E-911 wireless system and he believes the City of Lawton needs to be behind it. He feels that City Council members need to attend any civic organizations and endorse the election.

Mitchell stated staff has sent out a news release on this issue and will have it posted on the City of Lawton website.

MOVED by Jackson, SECOND by Warren, to approve **Resolution No. 05-185** supporting the upcoming countywide Enhanced Wireless 911 election on December 13, 2005. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

6. Consider denying a request for an access easement request across City owned property at Lake Lawtonka which is part of lease L-1. Exhibits: Request Letter and Location Map

7. Consider authorizing the City Attorney to accept the sum of One Thousand Four Hundred Ninety One and 08/100 Dollars (\$1,491.08) for settlement of the City's subrogation interest in the personal injury case of Johnny T. Lamb. Exhibits: None

8. Consider authorizing payment of \$1,500 to Briggs Rainbow Building, Inc. dba BRB Metal Roofing as final payment for work completed on the Fire Station #4 Re-roofing Project #2005-14. Exhibits: Letter from BRB Metal Roofing and Manufacturing dated October 24, 2005.

9. Consider approving plans and specifications for the Fire Station #3 & Fire Station #4 Re-roofing Project #2005-14 and authorizing staff to advertise for bids. Exhibits: None.

Shanklin stated he is concerned that there is consideration for any other type of roof other than metal. He is also concerned that we receive a factory warranty from the manufacturer. He stated it is in there with a twenty-year factory warranty and a twenty-year weather tightness and material warranty. He stated this might increase the cost of the roof.

MOVED by Shanklin, SECOND by Haywood, to approve the plans and specifications for the Fire Station #3 and Fire Station #4 Re-roofing Project #2005-14 and authorize staff to advertise for bids. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

10. Consider approving Change Order No. 2 for the NW 34<sup>th</sup> Street Drainage Project #2001-23 and a contract amendment request for the project with Bruton Construction Co., Inc. Exhibits: None.

Shanklin stated he felt this item should be discussed because we are going to liquidate damages of \$500 a day from September 29<sup>th</sup> if the Council approves. He stated this contractor is also under liquidated damages for a job on 38<sup>th</sup> Street. There are a lot of angry citizens who have been waiting to use 38<sup>th</sup> Street.

Ihler stated this agenda item is broken up into two areas. Staff has recommended approval of Change Order No. 2 which adds a total of 24 contract days for the construction of concrete pavement transitions (15 x27 ) for each of the six gary grate drainage structures including materials not indicated on the original plans but necessary for the project. He stated this also includes the cost of material and labor. Bruton Construction is requesting that Council approve a contract amendment which would continue to allow weather days during the remainder of the project work due to the massive amounts of water which drain through the project from surrounding neighborhoods. Bruton Construction is claiming that this is not a typical project and that construction work is severely impacted by all rainfall events. Staff is not recommending the additional time. When the contract was bid, all of the other contractors bid the project with the understanding that the contract time, once they got into liquidated damages, there would not be additional weather days added even though the contractor was working and may encounter. They felt it was not fair to the contractors who bid beforehand, to make an amendment after they have started the process. Bruton knew this before he bid the contract.

Shanklin questioned if we are fining him \$500 on these 24 days.

Ihler stated no.

Shanklin questioned how staff will know when he goes to work on the gary drains.

Ihler stated his contract would have stopped 24 days earlier. By adding these 24 days to the contract, and approving the change order for that time, it moves the time frame to September 29<sup>th</sup>. Liquidated damages start on September 30<sup>th</sup> for this project.

MOVED by Shanklin, SECOND by Warren, to approve Change Order No. 2 for the NW 34<sup>th</sup> Street Drainage Project #2001-23 and deny a contract amendment request for the project with Bruton Construction Co. Inc. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

11. Consider issuing a revocable permit to Carey Johnson Oil Company for the replacement of signage to serve the EZ Go convenience store located at 3164 Cache Road. Exhibits: Application and site plan. Revocable Permit is on file in the City Clerk s office.

12. Consider approving an agreement accepting an Emergency Management Performance Grant (EMPG). Exhibits: Emergency Management Preparedness Sub-Grant Agreement.

13. Consider adopting a street light resolution to authorize the installation of thirty-seven (37) street lights as detailed below. Exhibits: Street Light Resolution No. 438.

Ihler stated there is a change that needs to be made to the resolution. Number four on the resolution should read fiberglass poles instead of wood poles.

MOVED by Drewry, SECOND by Shoemate, to approve amended Street Light Resolution No. 438. AYE: Haywood, Warren, Shoemate, Drewry, Jackson, Shanklin, Patton. NAY: None. ABSENT: Givens. MOTION CARRIED.

14. Consider awarding (CL06-013) In-Line Hockey Dasher Board System to Premier Rinks dba Athletica, of Plymouth, Minnesota. Exhibits: Abstract of bids and department recommendation.

15. Consider awarding (CL06-015) Water Clarification Chemicals to Nalco Company, of Naperville, Illinois. Exhibits: Abstract of bids and department recommendation.

16. Consider approving the following contract extension: (CL04-072) Rear Suspension Repair with Loden Spring and Suspension, Inc., Wichita Falls, Texas. Exhibits: None. (Contract, information from previous bid award, and letter of staff recommendation on file in Financial Services Office).

17. Consider approval of payroll for the periods of October 10 - 23, 2005. Exhibits: None.

BUSINESS ITEMS:

18. Consider approving an ordinance pertaining to Utilities amending Section 22-1-1-104, Division 22-1-1, Article 22-1, Chapter 22, Lawton City Code, 1995, by providing information and direction for exempting customers who are victims of a FEMA declared natural disaster from having to pay a 10% late payment penalty if payment has not been received within the required 20 days and from having their service discontinued if their past due bill has not been paid within the 40 day required period. Exhibits: Letter of introduction from Dept. of Emergency Management regarding OHFA and Ordinance 05-\_\_\_\_\_.

Mitchell stated the City Council previously waived the penalties for anyone who qualified under FEMA for assistance. They would like to include those costs associated with utilities during the first six months for those individuals or families that have been approved by FEMA and are registered for repayment to OHFA. Staff believes this is probably a one time occurrence, but feels it is appropriate to change this in the ordinance so they can adjust the billing cycle.

Patton questioned who would have the authority to review these cases and make a decision.

Mitchell stated the Finance Director would have that authority. A list will be requested by OHFA and only those who are on that list will be eligible.

MOVED by Patton, SECOND by Warren, to approve **Ordinance No. 05-87**, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. ABSENT: Haywood. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-87

An ordinance pertaining to utilities amending Section 22-1-1-104, Division 22-1-1, Article 22-1, Chapter 22, Lawton City Code, 1995, by providing information and direction regarding utility accounts established for victims of FEMA declared natural disasters, providing for severability, and declaring an emergency.

19. Consider adopting an ordinance amending Section 19-6-606, Article 19-6, Chapter 19, Lawton City Code, 1995, by requiring identification numbers to be displayed on golf carts, providing for severability and declaring an emergency. Exhibits: Ordinance No. 05-\_\_\_\_\_.

Vincent stated when the City Council passed the ordinance for registration requirements for golf carts, it was not specified where to place the numbers or what color to use. The numbers were being placed in places where the police could not see them and using numbers the same color as the carts. As a result, this clarifies that the numbers must be displayed on the left and right side of the golf cart and must be of a color that contrasts the color of the cart.

Patton questioned if golf cart users have to register yearly and if there is a fee involved.

Warren questioned if under state law, are these carts considered motor vehicles.

Vincent stated yes for purposes of DUI, for example. He stated he does believe there is a small fee, but he did not have the full code section.

MOVED by Drewry, SECOND by Warren, to adopt **Ordinance No. 05-88**, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Shanklin, Patton, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. ABSENT: Haywood. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-88

An ordinance pertaining to recreation amending Section 19-6-606, Article 19-6, Chapter 19, Lawton City Code, 1995, by requiring identification numbers to be displayed on golf carts, providing for severability and declaring an emergency.

20. Consider approving the record plat for Pinchback Development and accepting the improvements, easement, and maintenance bond. Exhibits: Plat Map. Maintenance Bond and Easement are on file in the City Clerk's Office.

Debra Jones, Senior Planner, stated Pinchback Development is located one-fourth mile south of US 277/281 and SW 6<sup>th</sup> Street. The proposed subdivision contains four lots on 15.75 acres. The land is zoned I-3 (Light Industrial District) zoning classification. A final inspection has been performed with no deficiencies noted. A maintenance bond in the amount of \$915.00 has been submitted. An easement outside the platted area has also been submitted and reviewed by the City Attorney's Office.

MOVED by Warren, SECOND by Shoemate, to approve the record plat for Pinchback Development and accept the improvements, maintenance bond, and easement. AYE: Patton, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. ABSENT: Haywood. MOTION CARRIED.

21. Consider a request from Newton, Oldacre, McDonald regarding the City of Lawton's participation in the cost of roadway and signalization improvements for the proposed Wolf Creek Town Center development at 82<sup>nd</sup> & Cache Road; and take appropriate action as deemed necessary. Exhibits: Letter from Newton Oldacre McDonald dated 10/25/05, City Attorney's Legal Opinion Memorandum 05-07 dated 11/01/05, email correspondence from Don Kendall dated 10/26/05 and Planning Department letter concerning Cache Road improvements dated 06/23/05.

Mitchell stated included in the agenda packet is an opinion from the legal department responding to a request made by the developer of Wolf Creek Town Center. He stated that should the council decide to honor the request of the developer, he suggested they focus on offsite infrastructure improvements. He suggested the City Council determine the public benefit of the improvements, establish the degree of the public benefit and identify the funding source and give city staff direction.

Bill Oldacre, developer of the proposed center, stated that they are not asking the City of Lawton for money. His company has been in business since 1988 and has developed centers in the Southeast and Midwest and creates a first class shopping experience. They will bring 30-40 new businesses to the Wolf Creek Town Center located on 60 acres. Twenty more acres south of Cache at 82<sup>nd</sup> will include The Shops at Wolf Creek. They plan to invest \$50 million of their money. Of the \$50 million they plan to invest, \$48 million is private owned property and \$2 million will be invested in public infrastructure items. They are proposing to pay that themselves if they are able to pull the center together to make the development happen. They estimate they will pay \$250,000 a year in property tax. Right now they have approximately eight anchor stores. Of those eight, seven will be brand new to Lawton. They estimate 900 1,000 new jobs in Lawton. They anticipate the 400,000 square feet retail in Wolf Creek will generate \$5 million a year for the city. The property has been under contract for a little over a year and extended the closing twice. They have been to shopping center conventions selling this development in Lawton to first class retailers who are not in this market. He stated they are trying to design something beautiful and make it affordable for the tenants. The only place to find 80 acres is on the outskirts of town where the five lane road goes to two lanes and where the utilities stop. The infrastructure is not there to support the project. They are going to spend \$2 million today to improve the infrastructure and invest another \$48 million for a fantastic center. Once the center is built, it will generate \$5 million that the city is not getting right now. He is proposing that the city take money that this project generates to pay for the infrastructure surrounding the development.

He met with the City Manager and has given him a detailed breakdown of the cost involved by category and they are primarily road widening and traffic signals. He stated this project is not a done deal, if it was they would currently be under construction. There are cities in Alabama, for example, where they have developments and that state will pave parking lots, give free land, and they are aggressive in enticing retailers to their city. These roads and utilities are not adequate to support their development on the edge of town and these costs can be paid with the money generated by this project.

Givens questioned how he calculated \$5 million in revenues generated each year.

Mr. Oldacre stated the International Council of Shopping Centers is their trade organization and they provide detailed information about every retailer type and they know what they average on a per square foot basis in sales. They have taken those numbers and multiplied that by the local sales tax rate.

Warren questioned what changed between the beginning of this project and now. He stated they did not hear anything about a city share. It seems that they came in and built everyone up and suddenly nothing is going to happen unless the city puts forth some money. He sees that nothing has changed other than the excitement of the city and the likelihood of this Council to help provide funds is better now than it was in the beginning.

Mr. Oldacre stated when he met with the City Manager a little over a year ago he didn't seem very excited because city staff had their hopes up before. He stated this is a business transaction dealing with retailers and they don't know what they are going to do or what their costs will be. All they know is where their site is, how big it is and how much they will pay for the site. Then they go into designing the site. The bottom line is that in November 2005 they know a lot more than they did in August 2004. They have real numbers and real prices on dirt work, utilities, etc. Any money that will be put into this project will be money that the project will generate. He stated the City of Lawton can tell them no, and the project could still happen, but that investment could make a big difference. They anticipate from the time they start the site work, it is about a twelve month process to get every store open. They are proposing that once the City is receiving income from the project, some percentage comes back to the developer the first few years. They recognize that the City wants the revenues, so they will be divided for some short period of time until they are paid back.

Shanklin questioned if this was not going to be a viable project unless the City helps.

Mr. Oldacre stated the chances for success are greater if the City helps.

Shanklin questioned where else has the developer received help from the city and how much.

Mr. Oldacre stated in Opelika, Alabama the city helped out with \$10 million. He hoped that they would call the city officials. That city will make \$8 million a year for a one time cost of \$10 million. They did a general obligation bond deal of the city, he and his partners personally guaranteed the debt service. If there was a shortfall in debt service, they had to pay it. The sales tax revenues far exceeded the debt service. In Bristol, Virginia, they are doing a project the same way and it is a \$7 million project.

Shanklin questioned if the revenues will be new tax dollars.

Mr. Oldacre stated a large majority would be new tax dollars because a majority of the stores will be new to this market.

Shanklin questioned if that makes the individual income greater because there are different stores. He questioned if he has compared the spendable income of Lawton with other comparable cities. We spend \$600 per citizen and the city of Lawton is very poor. Norman is around \$1,200. He is bothered because other businesses will be hurt. There are only so many dollars and he has a hard time spending taxpayers dollars. He suggested we make calls to some of these other cities that have financed this investment and see what their market is. There are many things they need for that \$2 million. He doesn't see that they will generate that kind of money without ruining some other mom and pop stores.

Mr. Oldacre stated that residents are driving to Oklahoma City, Wichita Falls and Dallas to shop and taking sales tax dollars out of this county.

Jackson stated he is in favor because of the recent BRAC announcement the city of Lawton will be growing. He agrees that our per capita tax base is less than some comparable cities in Oklahoma and Texas but he believes those numbers will increase as BRAC comes in to play and our population increases. This project will take Lawton from a middle of the road city of 100,000 to a high class city with this nice shopping center. All over town we have contributed infrastructure development for projects. When the mall was developed we spent a lot of money getting the infrastructure ready. A lot of money was spent on road and water and sewer structures for the mall. If development is going to build out on 82<sup>nd</sup> Street, the City of Lawton has to be prepared and should be responsible. If the City does not react, there could be a real mess out there.

Givens clarified that the stores in this project will generate \$5 million in sales tax, not \$5 million in addition to what we currently take in on an annual basis.

Mr. Oldacre stated by ICSC sales numbers, these stores in this development will generate \$5 million a year and the majority of the stores are new to this market.

Givens stated it will take a couple of million away from other businesses in town. That is a little misleading to say it will generate \$5 million. This will not be all new dollars. He stated he is not real clear what they are being asked to do.

Mayor Purcell stated he is also unclear about what is being asked. They are obviously asking the city to invest \$962,000 worth of work on two roadway projects and two signalization projects.

Mr. Oldacre stated they had given the City Manager a breakdown that included other items that were in the \$1.5 million range

Mayor Purcell clarified that they are not expecting the City to do this now, but the developer will collect it back from the City out of that \$5 million worth of taxes over a period of years.

Mr. Oldacre stated that is correct. They are looking at repayment over a period of two or three years.

Warren questioned if they would take a quarter of the new tax dollars generated over a period of five or six years.

Mr. Oldacre stated they would have to understand how new dollars would be determined, but they would just like to be repaid.

Warren stated this would be much like a TIF and this is how he would have liked to see this whole thing transpired from the very beginning.

Drewry stated she would like to see a little more discussion before a decision is made.

John Mackey, local attorney for the developer, stated that as he understands this agenda item, the City Manager wanted to see how the City Council feels about this development and give staff some direction about how to proceed. He stated Mr. Oldacre did not expect that any type of vote would have been taken tonight. He just



wanted to make sure that there was no suggestion that the City pay any money until improvements have been made. The developer is committed to spending \$50 million and they only want a little help with the infrastructure that is outside their property which serves everyone.

Vincent stated a legal opinion was included in the agenda packet based on the questions asked by the City Manager. The questions now are a little different from those addressed in the packet. Under Article 10, Section 26 of the Oklahoma Constitution, this City Council cannot enter into a long term indebtedness beyond the end of the fiscal year without certain legal requirements being met, sometimes a vote of the people or if it is a TIF district it will include the votes of at least three other governing bodies before it can be approved. Some of these things are possible, but this is a long term deal if it is something other than the city building offsite infrastructure. If they are talking about cash dollars, it is a whole different issue.

Patton stated he fully supports this project. The developers want to invest \$48 million in this community and they have a pretty good idea about how to achieve this goal. He feels that tonight is not the proper venue to decide how we solve this issue, but they could vote to support meeting with the developers and trying to work out some type of agreement. He has been on the website and the developers have done some remarkable developments across the country.

Warren stated there have been some positive issues, like the BRAC issue which was not on the table when they decided to come to town. He supported the motion to direct staff to meet with the developers and get a hard list of infrastructure needs and let staff look at how to pay for those needs.

Mayor Purcell questioned if there was a definite number in mind.

Mr. Oldacre stated he does not have a definite number in mind. He understood that this meeting was just to discuss the issue and it will be voted on at a later date.

Mayor Purcell stated there was an email which states \$962,000 and now there is a letter which adds \$400,000. He stated they need some kind of idea of an amount. Everyone wants to help, but what is the number.

Mitchell stated this City Council needs to determine what is in fact a public benefit and what is not. He stated they gave the example of buying a traffic light, the Council could say that this is a public safety issue. It is more than just the dollars, but it is also determining what part of that dollar is a public benefit and what is not.

Mr. Oldacre stated that to use a round number, \$2 million is the number he has been discussing all night as compared to their investment of \$48 million.

Shanklin clarified that the developer is not asking for money up front. He questioned how they could give back sales tax money. When the project is completed and ready to go, the city will give them in excess of what the normal increase. They are taking the money out of the future increase in sales tax.

Mr. Oldacre stated if they build this project and nobody leases space and no sales tax is generated, they are out of luck. Each of the retailers has done extensive studies and they do not make a decision based on pictures and sales pitches. They know exactly what they expect to do in sales or they will not come.

Drewry stated at some point the city is going to have to improve the infrastructure in that area.

Mayor Purcell stated they have to determine a number before they go much further. Once a list is formulated, the City Attorney will have to determine if the projects serve a public purpose. This will all have to be worked out.

Shoemate questioned if they are opening up a Pandora's box with every new business that comes into Lawton. Will they all want the city to pay for new infrastructure? Is the City prepared for this? How is this going to look for those residents that have waited ten years to have their roads fixed.

Warren stated this is the first time that a developer has come to the Council who will front the money and let the city pay part of it back. If the City stands to make money in the end, they need to listen.

Mr. Mackey stated that these plans are not inconsistent with what everyone will want in that area someday such as widening Cache Road, improvements to 82<sup>nd</sup> Street and street lights that save lives. These are all potential CIP projects that could get done now. It will be paid back with money that would not have been there otherwise. It is to everyone's benefit to improve this area.

MOVED by Patton, SECOND by Warren, to direct staff to meet with developers and establish a list of needed projects not to exceed \$2 million. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

22. Consider approving Council Policy 1-9 regarding procedures of requesting information, infrastructure projects not on the approved Capital Improvement Project List and for staff to prepare reports or information for use by members of the Council and the Mayor. Exhibits: Proposed Council Policy No. 1-9.

Warren stated that he would like to emphasize that staff, as far as the City Manager, City Clerk, Municipal Court Judge and City Attorney, work for the City Council as a group, not as individuals. It becomes very difficult for these people to manage their time if each City Councilmember is asking for independent items. This policy give guidance that any item that takes more than an hour of staff time be put on an agenda and Council will vote if they want that time expended. For example, this item took four hours of staff time to prepare. The way he hoped it would work in the future, he would have asked the City Attorney to put this together but it would take more than an hour. This item would be placed on the agenda, and the City Council would discuss if they wish staff to look at this item.

Shanklin questioned if Mr. Warren was doing this for the City Manager and the Mayor and why did he think this needed to be done.

Warren stated there was an item on the agenda several months ago, and if the council would have been asked earlier, they would have known that the council was not interested in this item and staff would not have spent 15 hours developing the item. It is difficult for any of the people who work for the council to allot the time for their actual jobs and get everything the council requests day to day. If an item is important, there should not be a problem explaining this to the other council members. If the council does not want to pursue an item, then they would not have voted for it when it finally gets to the agenda. This will save a lot of staff time.

Drewry stated that they should not take advantage of staff members without at least going through the City Manager. The staff has other jobs to do and the council, as individuals, should not be asking staff to do all this stuff.

Jackson stated he is unclear what Mr. Warren is talking about. Is there a particular incident that has taken 10-15 hours. Has he been one to ask for information?

Warren stated this is not about individuals.

Mayor Purcell stated he hears everyday from staff that they are overwhelmed with requests from the Mayor and Council. He tries to give all his requests to the City Manager. There have been requests for meetings below the department level and some councilmembers go to two or three different people for the same thing. This is the kind of stuff that he and the City Manager hear every day. The staff cannot do their job and respond to the City Manager because of requests coming from the City Council. There is no question that the council members need information, and that will usually take just a few minutes, but some of the information takes much longer to retrieve, and that is what staff is complaining about.

Drewry stated that the council can get any information needed, but they just need to go through the proper channels.

Warren distributed a list of 36 committees and boards that are staffed. This is part of their job to staff these boards and committees.

Jackson stated that elected officials need to answer questions from their constituents. He cannot do that if he has to agenda an item to get that information. He does not believe that there is an issue here.

Shanklin stated that if anyone has said that he has harassed them with all kinds of questions then give him a list. He has gone to two people in the last year and half or two years and have gotten no response out of them and now he does not go there.

Givens stated that this is the way it should be done anyway.

MOTION by Shanklin that every question asked of any staff member must go through the City Manager and let him disperse and everyone will receive a copy of what is asked.

Motion died due to a lack of a second.

Warren stated that if he has a complaint about high grass and weeds, he sends an email to the Assistant City Manager who then forwards the message to Neighborhood Services.

Mitchell stated this policy just formalizes what the council does now.

Jackson stated he feels that if this process is being followed, then it is not needed.

Shoemate stated he does not see anything wrong with this policy. Generally he calls and speaks to the City Manager, City Attorney or the City Clerk. We should have some kind of system that does not overwork staff.

MOVED by Warren, SECOND by Drewry, to approve Council Policy 1-9. AYE: Warren, Shoemate, Givens, Drewry, Patton, Haywood. NAY: Jackson, Shanklin. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Haywood stated there will be football game on November 12 at 2:00 p.m. at Cameron Stadium between Langston University and Haskell Indian Nations University. He thanked the citizens of Lawton for their support.

Jackson stated he is being overrun in school zones and requested staff look into the length of the school zone in front of Lawton High and Central Junior High.

Drewry reported the Boulevard of Lights kick-off will be on November 19<sup>th</sup> with the parade. All council members are invited to sit in the VIP stand.

Givens he has some objections to where the ice rink is being placed. He would have preferred it be placed in Elmer Thomas Park, but the electrical work would have cost \$15,000 as opposed to \$5,000 in the Library Plaza. He did not see from the agenda item that it would be placed in the street. There have been some personal objections from business owners in that area. He would like to propose that it be moved to Elmer Thomas Park and he will secure the funding.

Tim Hushbeck, Public Service Company of Oklahoma, stated there would be much more work to locate the rink in Elmer Thomas Park. He stated much of that cost is for the transformer and they may be able to take down the work that has been placed in the Library Plaza and refigure the costs.

Mitchell questioned how much time it would take to reschedule the work and move to another location.

Mr. Hushbeck stated that would depend on the availability of the poles and how long it would take to set. They would try to expedite the process as quickly as possible. He questioned when the opening date would be scheduled.

Mitchell stated they are trying to open on November 19<sup>th</sup>, the same night as the Boulevard of Lights parade.

Mr. Hushbeck stated he could get an answer the following day.

Vincent stated the contract specifies the location and will have to be amended if the rink is moved.

Mayor Purcell stated Mr. Hushbeck will contact the City Manager about the possibility of moving the rink.

Givens stated he is tired of all the metal buildings going up all over town next to residential areas. There are places for metal buildings, such as industrial areas. He would like to have something done that would prevent this.

Vincent stated that staff is currently preparing design standards for the 2<sup>nd</sup> Street Corridor called an overlay. They can do this for other areas of the city upon designation by the Council. Under the current code, as long as a building meets the city code, it is a permissible building. They can accomplish what Mr. Givens is requesting through a design overlay for areas bordering residential areas.

Warren questioned if council members can ask staff during the report section to bring back an item.

Vincent stated there was a change in the open meeting act about a year ago to allow council to give staff direction during this type of discussion.

Givens stated he does not want staff to bring information back if everyone else is opposed to the idea.

Vincent stated that staff has been working on design standards for the 2<sup>nd</sup> Street Corridor for the past 2-3 months and they are looking at another 4-6 months before they are ready. Creating design standards for zoning overlay districts is not an easy task.

Shanklin questioned who requested the design standards for 2<sup>nd</sup> Street.

Vincent stated the Lawton Urban Renewal Authority.

Givens questioned if these metal buildings bother any other council member.

Shanklin questioned how big of a buffer zone does there need to be.

Givens stated that he believes that metal buildings should not be in residential areas.

Mayor Purcell stated that if everyone is in agreement, Councilmember Givens will bring back an agenda item to discuss what the council would like to do about this issue.

Mayor Purcell reported that there might be a joint meeting with the Comanche County Commission on Wednesday, November 16<sup>th</sup> at 6:00 p.m. in Town Hall to discuss and give guidance to both city and county staff on the consolidation of E-911 and the consolidation of emergency operations.

Mitchell thanked members of the CCIDA Board who voted to support the application for monies to proceed with the conservation buffer program that has been approved by the Department of the Army.

Vincent reminded the City Council of the OML Water Conference on November 17<sup>th</sup> in Oklahoma City.

The Mayor and Council convened in executive session at 8:21 p.m. and reconvened in regular, open session at 8:24 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

23. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation claim of Larry Carr, and if necessary, take appropriate action in open session.

Vincent read the title of item 23 shown above. He said the Council did receive a briefing on the claim. No action is required.

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation claim of Kurt Short, and if necessary, take appropriate action in open session.

Vincent read the title of item 24 shown above. He said the Council did receive a briefing on the claim. No action is required.

#### ADJOURNMENT

There being no further business to consider, the meeting adjourned at 8:25 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

ADJOURNMENT